

AN ORDINANCE

TO AMEND THE STORMWATER MANAGEMENT PROVISIONS OF THE CITY CODE'S LAND MANAGEMENT ORDINANCE BY REVISING THE POWERS AND DUTIES OF THE PLANNING COMMISSION AND CLARIFYING TERMS AND PROVISIONS OF THE STORMWATER ORDINANCE (Z-14-2013)

WHEREAS, the current Stormwater Ordinance (Article 19-7) was adopted in November 2012 and was implemented beginning January 2013; and

WHEREAS, during implementation of the Stormwater Ordinance staff realized implementation of some regulations could be impractical; and

WHEREAS, the city has the desire for growth while protecting the environment with regulations which are effective, efficient and practical; and

WHEREAS, in order to support the foregoing objectives, proposed amendments have been made to the Stormwater Ordinance which are more practical while still protecting the environment; and

WHEREAS, these regulations exceed the minimum requirements set forth by South Carolina Department of Health and Environmental Control and the Environmental Protection Agency; and

WHEREAS, these proposed amendments have been fully vetted by the design community; and


WHEREAS, the proposed amendments affect the powers and duties of the City Planning Commission; and

WHEREAS, the Planning Commission pursuant to public notice held a public hearing on August 8, 2013, to consider the proposed amendments to the various sections of the Land Management Ordinance and recommended the amendments; and

WHEREAS, City Council now desires to approve the proposed amendments as set forth in this Ordinance;

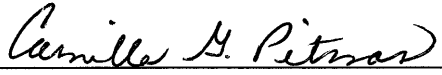
NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, various sections of Article 19-7 of the Land Management Ordinance of the city of Greenville are amended, repealed and replaced as provided in Exhibit A, "Amendments to Land Management Ordinance regarding Implementation Of Stormwater Management And Powers And Duties Of The Planning Commission," which is attached hereto and incorporated herein by reference.

DONE, RATIFIED AND PASSED THIS THE 9 DAY OF September, 2013.



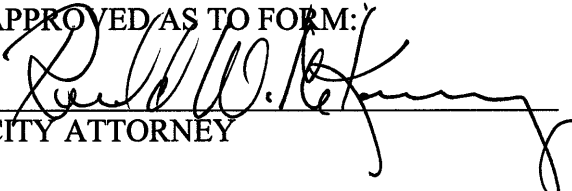
MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

REVIEWED:



CITY MANAGER

EXHIBIT A**Amendments to Land Management Ordinance regarding
Implementation of Stormwater Management and
Powers and Duties of the Planning Commission**

Codifier: Amend the following Code Sections to include the following language as underlined and delete language as struck through. Maintain the rest of the section as provided in Code and amend indexing as needed.

Sec. 19-7.5. - Stormwater Permits.**19-7.5.1. General.****C. Stormwater permit classification**

(2) *Minor stormwater permit.* A minor stormwater permit typically requires stormwater quality and may include additional requirements for activities in special management areas. A minor stormwater permit is required when a development:

(a) Disturbs more than one but less than two acres; or

(b) Has a total impervious surface area ratio of 60 percent or greater and disturbs 50 percent or more of the parcel or larger common plan over a five year period.

D. Larger common plan. Larger common plans are defined as the following:

(1) A construction activity that is completed in separate stages, separate phases, or in combination with other construction activities that ultimately disturbs 10,000 square feet or more over a period of five years; or

(2) Any proposed development activity that occurs on a lot or parcel of land that has contiguous lots or parcels of lands owned in whole, or in part, by the same property owner, then the criteria as defined in this article will be applied to the total land area compiled from aggregate ownership parcels.

(3) A larger common plan expires five years after the site is stabilized in compliance with the requirements of this article, all proposed construction causing land disturbing activities has been completed, and the notice of termination has been submitted and accepted by South Carolina Department of Health and Environmental Control. Water quantity control shall not be required for modifications to these sites provided that the originally permitted curve number aligns with the proposed impervious surfaces. All other requirements of this article shall be met.

E. *Exempted development.* All development shall meet the minimum state, federal and local regulations. Upon review and verification by the administrator or designee, the following are exempt from specific ordinance requirements. However, no development is exempt from the floodplain, floodway, wetland, riparian environment, depressional storage and soil erosion and sediment control provisions of this article.

(1) Agricultural land management and agricultural practices, or the construction of on-farm buildings and structures less than one acre in size used in a farming operation.

(2) Construction or land improvement of a single-family residence, a duplex dwelling or their accessory structures which are separately built and are not part of a larger common plan.

(3) Single family residences or duplex dwellings not part of a larger common plan.

(4) Single family residences or duplex dwellings part of a larger common plan that are constructed in compliance with the approved stormwater permit for the larger common plan.

(5) (3) Maintenance of existing buildings, facilities, parking lot seal coating and resurfacing of roadways ~~when the road elevation is not increased.~~ when the overall drainage pattern has not been significantly altered and will not cause impact to adjacent properties. The use of coal-tar based pavement sealcoat is prohibited.

(Codifier: Continue renumbering of sub-paragraphs.)

Codifier: Repeal and Replace the following Code Section.

Sec. 19-7.6. - All development.

19-7.6.2. Minor stormwater permit.

B. Performance standards. Water quality treatment is typically required for minor stormwater permits.

- (1) Water quality treatment is required when either:
 - (a) The proposed development has a total impervious surface area ratio of 60 percent or greater and disturbs 50 percent or more of the parcel or larger common plan over a five year period; or
 - (b) The proposed development creates a new impervious surface greater than or equal to 0.25 acres.
- (2) For those developments requiring water quality treatment, the following shall be met:
 - (a) Water quality treatment shall be provided prior to discharging to Waters of the United States or adjoining properties.
 - (b) For developments disturbing 50 percent or more of the parcel, the water quality volume referenced below shall be over the entire parcel.
 - (c) For developments disturbing 50 percent or more of the larger common plan over a five year period, the water quality volume referenced below shall be over the entire larger common plan.
 - (d) For those developments adding more than 0.25 acres of new impervious, the water quality referenced below shall be over the entire disturbed area.
 - (e) For dry detention, water quality treatment shall be provided for a volume equal to the first inch over the required treatment area as specified above with a release rate over a 24-hour period.
 - (f) For alternate water quality methods (i.e. mechanical water quality), water quality treatment shall be provided for a volume equal to the first inch over the required treatment area as specified above.
 - (g) For wet detention, water quality treatment shall be provided for a volume equal to 0.5 inches of runoff over the required treatment area as specified above with a release rate over a 24-hour period. A littoral zone shall be established for water quality treatment to enhance treatment effectiveness.
 - (h) For permanent infiltration trenches, water quality treatment shall be provided for a volume equal to the first inch of runoff from all impervious surfaces. Infiltration trenches shall be designed to completely drain of water within 72 hours. Soil must have adequate permeability to allow water to infiltrate; infiltration practices are limited to soils having an infiltration rate of at least 0.30 inches per hour.

- (i) For those sites using alternate water quality methods that treat water quality based on a flow rate, the treated flow rate shall be determined using the Method for Computing Peak Discharge for a Water Quality Storm (adapted from Clayton and Schueler, 1996). This methodology relies on the volume of runoff computed using the Small Storm Hydrology Method (Pitt, 1994) and utilizes the NRCS, TR-55 Graphical Peak Discharge Method (USDA, 1986). A sample methodology is presented in the Stormwater Technical Reference Manual.
- (j) Hydrocarbon (e.g., oil and grease) removal technology shall be required for all areas accepting flow from parking/loading areas, and vehicle drive surfaces (e.g. roadways and driveways). The volume for hydrocarbon removal shall be based on 0.5 inch over the impervious surfaces described above to each treatment device. The Hydrocarbon removal rate shall be a minimum 50%. The volume for Hydrocarbon removal shall not be in addition to those volumes calculated in section (b) thru (d) above, provided the method of treatment provides a Hydrocarbon removal rate of 50%.
- (k) Waters of the State and Waters of the U.S. shall not be used for permanent or temporary placement of water quality treatment devices.

Codifier: Amend the following Code Sections to include the following language as underlined and delete language as struck through. Maintain the rest of the section as provided in Code and amend indexing as needed.

19-7.6.3. *Major stormwater permit.*

B. ~~C.~~ Performance standards. Detention is typically required for major stormwater permits. ~~The following requirements shall be met.~~

- (1) Water quantity is required when the development creates more than 0.25 acres of new impervious surfaces.
- (2) For those developments requiring water quantity, the following requirements shall be met:

(a) ~~(1)~~ *Runoff calculations, release rates and discharges.*

(i) ~~(a)~~ Design runoff rates shall be calculated using a city-approved hydrograph-producing runoff calculation method as prescribed in the Stormwater Technical Reference Manual volume-based hydrograph, such as ICPR, HEC-1, SEDCAD, Hydraflow Hydrographs, etc.

(ii) Rainfall data as presented in Appendix G of this article shall be used for rainfall volume, storm distribution, return frequency and event duration.

(Codifier: Continue renumbering of sub-paragraphs in this section.)

(b) ~~(2)~~ *Detention and retention facilities*

(i) ~~(a)~~ All stormwater facilities, when determined applicable by the administrator or designee, shall be provided with:

(a) ~~(i)~~ An emergency overflow structure capable of passing the 100-year, 24-hour storm event without damages to downstream structures or property.

(b) ~~(ii)~~ The top of the impounding structure shall be a minimum of one foot above the 100-year, 24-hour storm event peak stage.

~~(c) (iii)~~ Features to facilitate maintenance and emergency ingress and egress capability.

~~(ii) (b)~~ Outlet pipe and orifice diameter shall be designed to prevent clogging and in compliance with the Stormwater Technical Reference Manual.

~~(iii) (e)~~ Stormwater infiltration, retention and detention facilities required to meet a development's discharge requirements shall be designed to by-pass off-site tributary flow from streams and channels unless approved by the administrator or designee.

~~(iv)~~ Low impact development measures, bioretention cells, infiltration, and other post-construction practices should be installed only after the drainage area to these practices has been stabilized unless approved by the administrator or designee

~~(v) (d)~~ Any development involving the construction, modification or removal of a dam shall obtain from the South Carolina Department of Health and Environmental Control a Dam Safety Permit or a letter stating no permit required. Any permit from the U.S. Army Corps of Engineers is required prior to the start of such activity.

(Codifier: Continue renumbering of sub-paragraphs in this section.)

Sec. 19-7.9. – Variances, waivers and appeals**19-7.9.1. Variances.**

A. For ~~minor stormwater permit, major stormwater permits, and special management area~~ the regulatory floodplains and regulatory floodways provisions, the city council upon planning commission recommendation, upon application, after hearing, and subject to the process and standards that follow, may grant variances to the provisions of this article as will not cause detriment to the public good, safety, or welfare nor be contrary to the spirit, purpose, and intent of this article where, by reason of unique and exceptional physical circumstances or condition of a particular property, the literal enforcement of the provisions of this article would result in an unreasonable hardship.

B. For minor stormwater permits, major stormwater permits, and special management areas (other than the regulatory floodplain and regulatory floodways) provisions, the planning commission, upon application, after hearing, and subject to the process and standards that follow, may grant variances to the provisions of this article as will not cause detriment to the public good, safety, or welfare nor be contrary to the spirit, purpose, and intent of this article where, by reason of unique and exception physical circumstances or condition of a particular property, the literal enforcement of the provisions of this article would result in an unreasonable hardship.

~~C.A.~~ Variances shall be granted only upon:

- (1) Showing of good and sufficient cause; and
- (2) A determination that the variance is the minimum necessary to afford relief; and
- (3) A finding that failure to grant the variance would result in exceptional hardship to the applicant; and
- (4) A finding that the granting of a variance would not result in increased flood heights, additional threats to public safety, or any public expense, nor create nuisances, cause fraud or victimization of the public, nor conflict with existing local laws or ordinances and that all buildings will be protected by methods that minimize flood damage during the base flood elevation; and
- (5) A finding that the development activity cannot be located outside the regulatory floodplain; and
- (6) A determination that the activity is not in a regulatory floodway. No variances shall be granted to any development located in a regulatory floodway; and

(7) The applicant's circumstances are unique and do not represent a general problem; and

(8) The granting of the variance will not alter the essential character of the area involved including existing stream uses.

D.B. A public notice will be issued inviting public comment on all proposed variances. The city shall publish a copy of the public notice 15 days before public hearing to allow for community comment. The planning commission shall hold the a public hearing, ~~and make a ruling recommendation to the city council. The city council shall have the final authority in granting any variances.~~

E.C. Variances requested in connection with restoration of a historic site or building listed on the National Register of Historical Places or documented as worthy of preservation by the South Carolina Historic Preservation Agency may be granted using criteria more permissive than the requirements contained in this article.

F.D. The administrator or designee shall notify an applicant in writing that a variance from the requirements of the Regulatory Floodplains and Regulatory Floodways requirements [subsection] 19-7.7.1 that would lessen the degree of protection to a building will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for every \$100.00 of insurance coverage, increase the risks to life and property, and require that the applicant will acknowledge in a signed exception to title the assumption of the risks and liability and will pay upon approval of the variance a recording fee above and beyond the usual permit review fee.

G.E. In a regulatory floodplain, a variance shall not be granted that will result in a loss of the regulatory floodplain storage.

H.F. Variances requested in connection with the redevelopment of previously developed sites that will further the public policy goals of downtown redevelopment and neighborhood revitalization and meet the requirements of part C. A. above, may be granted provided the variance would not result in an increase in the pre-redevelopment runoff rate for the 25-year, ten-year and two-year storm events and existing adequate downstream stormwater capacity exists.

I.G. Due to the unique nature of a public road project by a public entity occurring in an existing narrow right-of-way instead of an expansive tract of land, variances requested in connection with a public road that will further the public policy of minimizing the condemnation of private or public property may be granted using criteria more permissive than the requirements of this article to the minimum extent necessary to achieve the least amount of condemnation.

J.H. Written findings shall be made public for all variances and shall be on file with the city of Greenville.

19-7.9.3. *Appeals.* Appeals to the decision of the administrator or his designee as it relates to waivers shall be appealed to the Planning Commission as detailed in the variance process.

~~Appeals to the decision of the Planning Commission as it relates to variances shall be appealed to the city council.~~ A person having a substantial interest affected by a decision of the ~~council~~ Planning Commission may appeal the decision ~~of the council~~ to the circuit court of Greenville County by filing with the clerk of the court a petition setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal shall be filed within 30 days after the written decision of the council is issued.

Sec. 19-7.12 - Enforcement**19-7.12.1. *Violations; penalties; maintenance; restoration.***

A. A person shall be in violation of this article when he:

- (1) Commences or conducts an activity described in this article without prior approval from the Environmental Bureau; or
- (2) Deviates from an approved stormwater permit or drainage plan; or
- (3) Fails to maintain drainage facilities under that person's ownership or control;
or
- (4) ~~Undertakes activity~~ Changes the drainage patters along the property line or stormwater conveyance system and as a result water has flooded or is reasonably likely to flood land or a building(s) other than that of the property owner.
- ~~(5) — Undertakes activity and as a result water has flooded or is reasonably likely to flood a building or part thereof, regardless of property ownership.~~

B. Any activity undertaken in violation of this article shall be halted immediately after written notice by the city is issued. The violator shall be required to restore any altered land to its undisturbed condition or restore it to such condition in which it would not shed stormwater in violation of the control requirements for stormwater runoff. In the event that restoration is not undertaken within 30 days, the city may perform restoration on the property. The cost of the restoration shall become a lien upon the real estate where such restoration occurred and shall be collectable in the same manner as the municipal taxes.